

Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305



Mac Warner
Secretary of State
State of West Virginia
Phone: 304-558-6000
888-767-8683
Visit us online:
www.wvsos.com

USPS CERTIFIED MAIL™



9214 8901 1251 3410 0003 4812 29

JUSTIN DARNELL DOSS
3000 N 4TH STREET
LOT 9
WYTHEVILLE, VA 24832

Control Number: 290585

Defendant: JUSTIN DARNELL DOSS
3000 N 4TH STREET
LOT 9
WYTHEVILLE, VA 24832 US

County: Fayette

Civil Action: 22-C-30

Certified Number: 92148901125134100003481229

Service Date: 3/18/2022

I am enclosing:

1 summons and complaint

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in your name and on your behalf.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on your behalf as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.

Sincerely,

Mac Warner

Mac Warner
Secretary of State



RECEIVED 3/10/2022 2:16 PM
CC: 10/2022-C-30
Fayette County Circuit Clerk
Deborah Hendrick

SUMMONS

IN THE CIRCUIT COURT OF FAYETTE COUNTY, WEST VIRGINIA

SUSAN PENICK,

Plaintiff,

vs.

CIVIL ACTION NO. 22-C-30

HONORABLE: Paul M. Blake, Jr.

**TIMBER EXPRESS, INC. and
JUSTIN DARNELL DOSS,**

Defendants.

**TO: JUSTIN DARNELL DOSS
3000 N. 4th Street, Lot 9
Wytheville, VA 24832**

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby Summoned and required to serve upon Letisha R. Blka, Plaintiff's attorney, whose address is P.O. Box 3842, Charleston, West Virginia 25338, an answer, including any related counterclaim you may have, to the Complaint filed against you in the above-styled civil action, a true copy of which is herewith delivered to you. You are required to serve your answer to the Complaint within thirty (30) days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint, and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above-styled civil action.

Dated: _____

Clerk of Court

By: _____

Fayette County Circuit Clerk
Deborah Hendrick

IN THE CIRCUIT COURT OF FAYETTE COUNTY, WEST VIRGINIA

SUSAN PENICK,

Plaintiff,

vs.

CIVIL ACTION NO. 22-C-30

HONORABLE: Paul M. Blake, Jr.

TIMBER EXPRESS, INC. and
JUSTIN DARNELL DOSS,

Defendants.

COMPLAINT

COMES NOW the Plaintiff, Susan Penick, by and through her counsel, Stephen B. Farmer, Robert A. Campbell, Letisha R. Bika, R. Chad Duffield and the law firm of Farmer, Cline & Campbell, PLLC, and hereby states as follows for her complaint:

Jurisdiction and Venue

1. Plaintiff Susan Penick ("Ms. Penick") is a resident of Fayette County, West Virginia.
2. Upon information and belief, Defendant, Justin Darnell Doss ("Defendant Doss") is a resident of Virginia.
3. Upon information and belief, Defendant, Timber Express, Inc., is a Nebraska corporation, having a principal office address at 5356 Highway 30, in Kimball, Nebraska (69145).
4. Upon information and belief, at all relevant times to the events described in this Complaint, Timber Express, Inc. was registered with the United States Department of Transportation as a for hire motor carrier, engaged in the interstate transportation of goods.

5. Pursuant to *West Virginia Code* §§ 56-3-31 and 56-3-33, this Court has jurisdiction over the Defendants and the claims asserted in this action.

6. Pursuant to *West Virginia Code* §56-1-1, Fayette County is an appropriate venue for this action.

COUNT I
Defendant Doss' Wrongful Conduct

7. Ms. Penick incorporates, by reference, all preceding allegations contained in this Complaint

8. On or about May 12, 2020, Ms. Penick was operating a small car and headed south on Route 61 in Robson, Fayette County, West Virginia.

9. At the same time and in the same area, Defendant Doss was headed north on Route 61, while operating a 1996 International tractor-trailer.

10. While negotiating a curve in the road, Defendant Doss negligently, carelessly and recklessly caused his trailer to cross the center line and enter into the opposing lane of travel.

11. As a direct and proximate result of the trailer cross the center line, the trailer crashed into Ms. Penick's vehicle.

12. Defendant Doss' actions were negligent, reckless, and/or showed actual malice and/or an outrageous indifference to the health, safety and welfare of others.

13. As a direct and proximate result of Defendant Doss' conduct, and the collision described above, Ms. Penick suffered injuries to her body, for which she will continue to experience and/or incur;

- (a) medical expenses;
- (b) pain and suffering;
- (c) physical limitations;
- (d) diminished capacity to enjoy life;
- (e) annoyance and inconvenience;
- (f) loss of household services;
- (g) permanent impairment;
- (h) mental anguish; and
- (i) other consequences and damages associated with her injuries as may be specified as this action progresses.

COUNT II

Prima Facie Negligence

14. Ms. Penick incorporates, by reference, all preceding allegations contained in this Complaint.

15. At the time of the collision, Defendant Doss was operating a commercial motor vehicle.

16. At the time of the collision, Defendant Doss was engaged in the interstate transportation of goods.

17. At the time of the collision, Defendant Doss was subject to the Federal Motor Carrier Safety Regulations.

18. Defendant Doss, as an operator of a large commercial vehicle on a public roadway in West Virginia, owed a duty to the general public, and in particular to Ms. Penick, to obey all State and Federal laws and regulations with regard to operating a commercial vehicle on public roadways.

19. In addition to those instances of negligence set forth elsewhere in this Complaint, Defendant Doss was negligent, reckless, and/or showed actual malice and/or an outrageous indifference to the health, safety and welfare of others in at least the following ways:

- a. failing to keep his tractor-trailer under control;
- b. failing to operate his tractor-trailer in a safe and prudent manner in view of the conditions that existed at the time of the collision;
- c. failing to adhere to safe driving principles expected of professional truck drivers with commercial driver's licenses, including, but not limited to, failing to keep his tractor-trailer within a single lane of travel and compensating for off-tracking such that the trailer would not swing into the opposing lane of travel; and/or
- d. otherwise failing to use that degree of care and caution that a reasonable and prudent person would have exercised under the same or similar circumstances.

20. Pursuant to *West Virginia Code* §§ 17C-7-1 and 17C-7-9, Defendant Doss was prohibited from driving his tractor-trailer outside of the right half of the roadway;

21. Defendant Doss violated the requirements of *West Virginia Code* §§ 17C-7-1 and 17C-7-9 by causing his trailer to leave the confines of his lane and enter into the opposing lane of traffic.

22. Defendant Doss was negligent *per se* in that he violated Federal Motor Carrier Safety Regulations and various rules of the road as incorporated into the laws and regulations of West Virginia.

23. Defendant Doss' illegal actions and inactions proximately caused the collision, Ms. Penick's injuries, and the damages as set forth above.

24. Defendant Doss' wrongful conduct constitutes *prima facie* evidence of negligence and is actionable.

25. As a proximate result of her injuries, Ms. Penick, incurred and will incur in the future, substantial, general and special damages specified in this Complaint.

COUNT III
Liability of Timber Express, Inc.

26. Ms. Penick incorporates, by reference, all preceding allegations contained within this Complaint.

27. At the time of the collision, Defendant Doss was operating the tractor-trailer under the motor carrier authority granted to Timber Express, Inc.

28. As the motor carrier, Timber Express, Inc. Had a duty to require Defendant Doss to comply with all applicable laws and regulations.

29. As the motor carrier, Timber Express, Inc. Is independently responsible for Defendant Doss' wrongful conduct and the Plaintiff's damages as set forth in this Complaint.

30. Upon information and belief, at all times relevant to this Complaint, Defendant Doss was acting within the course and scope of his employment and/or agency with Timber Express, Inc.

31. Defendant Timber Express Inc. is vicariously liable pursuant to the theories of principal/agency and respondeat superior for all wrongful actions and omissions that were committed by its agent/employee, Defendant Doss.

32. Defendant Timber Express, Inc. was otherwise negligent.

WHEREFORE, the Plaintiff, Susan Penick, requests that she be awarded judgment against the Defendants, Timber Express, Inc. and Justin Darnell Doss, for the following:


- (a) compensatory damages in an amount to be determined by a jury;
- (b) pre-judgment and post-judgment interest as allowed by law;
- (c) attorneys' fees, costs and expenses incurred in connection with this action; and
- (d) such other and further relief as the Court deems just and appropriate under the circumstances.

PLAINTIFF DEMANDS A JURY TRIAL ON ALL ISSUES SO TRIABLE.

SUSAN PENICK,

Plaintiff,

By Counsel:



STEPHEN B. FARMER (W.Va. State Bar 1165)
ROBERT A. CAMPBELL (W.Va. State Bar 6052)
✓ LETISHA R. BIKA (W.Va. State Bar 5489)
R. CHAD DUFFIELD (W. Va. State Bar 9583)
FARMER, CLINE & CAMPBELL, PLLC
746 Myrtle Road (25314)
Post Office Box 3842
Charleston, West Virginia 25338
(304) 346-5990

COVER SHEET

Fayette County Circuit Clerk
Deborah Hendricks

GENERAL INFORMATION

IN THE CIRCUIT COURT OF FAYETTE COUNTY WEST VIRGINIA
Susann Penick v. Timber Express, Inc. c/o Brian S. Judy

First Plaintiff:

☐ Business

☒ Individual

☐ Government

☐ Other

First Defendant:

☒ Business

☐ Individual

☐ Government

☐ Other

Judge:

Paul M. Blake, Jr.

COMPLAINT INFORMATION

Case Type: Civil

Complaint Type: Other

Origin:

☒ Initial Filing

☐ Appeal from Municipal Court

☐ Appeal from Magistrate Court

Jury Trial Requested:

☒ Yes ☐ No

Case will be ready for trial by: 3/1/2023

Mediation Requested:

☒ Yes ☐ No

Substantial Hardship Requested: ☐ Yes ☒ No

☐ Do you or any of your clients or witnesses in this case require special accommodations due to a disability?

☐ Wheelchair accessible hearing room and other facilities

☐ Interpreter or other auxiliary aid for the hearing impaired

☐ Reader or other auxiliary aid for the visually impaired

☐ Spokesperson or other auxiliary aid for the speech impaired

☐ Other:

☐ I am proceeding without an attorney

☒ I have an attorney: Letisha Bika, P.O. Box 3842, Charleston, WV 25338




4/24/22, 9:49 AM

Defendant details



West Virginia Secretary of State Mac Warner

<http://www.sos.wv.gov>

Home (<http://www.sos.wv.gov/pages/default.aspx>) | Business4WV (<http://www.business4wv.com/b4wvpublic/>) |
News Center (</news/Pages/default.aspx>) |  (<http://www.facebook.com/wvsos>) |
 (<http://twitter.com/wvsosoffice>) |  ([http://www.sos.wv.gov/_layouts/feed.aspx?
xsl=1&web=%2Fnews&page=26402023-f08d-441f-9bbd-5690559009d1&wp=d963eb34-2126-4d12-bf9a-
8c46be406e7e](http://www.sos.wv.gov/_layouts/feed.aspx?xsl=1&web=%2Fnews&page=26402023-f08d-441f-9bbd-5690559009d1&wp=d963eb34-2126-4d12-bf9a-8c46be406e7e))

Secretary of State (<http://www.sos.wv.gov/Pages/default.aspx>) > Business and Licensing
(<http://www.sos.wv.gov/business-licensing/Pages/default.aspx>) > Service of process search ([/business/service-
of-process/](/business/service-of-process/)) > Defendant details

Defendant details

Civil action #22-C-30 (</business/service-of-process/Home/Search?CivilActionNumber=22-C-30>)**Defendant**JUSTIN DARNELL DOSS ([/business/service-of-process/Home/Search?
DefendantName=JUSTIN%20DARNELL%20DOSS](/business/service-of-process/Home/Search?DefendantName=JUSTIN%20DARNELL%20DOSS))**Agent****Country**

US - UNITED STATES

County

Fayette

Service date

Friday, March 18, 2022

Certified number

92148901125134100003481229

Delivery date

Saturday, March 26, 2022



4/24/22, 9:49 AM

Defendant details

USPS status

DELIVERED LEFT WITH INDIVIDUAL [details] (/business/service-of-process/Home/USPSStatusDetails/290585)

City/State/Zip

WYTHEVILLE, VA 24832

Was delivered


Yes

Staff comment**Signature image**

View image (/business/service-of-process/Home/ViewImage/1c5ac731-7eae-ec11-a9bd-00155d636724)

Please note: USPS requires a signature whenever certified mail is returned to sender. When mail from the Secretary of State is returned, it is processed and signed by the state's central mailing office. If your mail was intended for a private entity (that is, anyone other than a state officer or agency) and the signature below is that of **Adam Robinson, Central Mailing Office, Danny Pauley, Jim Carter, Ronald Kushner or State of West Virginia**, then your mail was *NOT DELIVERED* and will be returned to the clerk of the appropriate court.

Home (<http://www.sos.wv.gov/pages/default.aspx>) | Contact Us (<http://www.sos.wv.gov/Pages/contact-us.aspx>) | Site Map (<http://www.sos.wv.gov/Pages/sitemap.aspx>) | Disclaimer (<http://www.sos.wv.gov/Pages/content-disclaimer.aspx>)

 (<http://www.wv.gov>)

State Agency Directory (<http://www.wv.gov/Pages/agencies.aspx>) | Online Services (<http://www.wv.gov/Pages/services.aspx>)

4/24/22, 9:50 AM

USPS Status details



West Virginia Secretary of State Mac Warner

(http://www.sos.wv.gov)

Home (<http://www.sos.wv.gov/pages/default.aspx>) | Business4WV (<http://www.business4wv.com/b4wvpublic/>) | News Center (<http://www.sos.wv.gov/news/Pages/default.aspx>) | Facebook (<http://www.facebook.com/wvsos>) | Twitter (<http://twitter.com/wvsosoffice>) | RSS (http://www.sos.wv.gov/_layouts/feed.aspx?xs=1&web=%2Fnews&page=26402023-f08d-441f-9bdd-5690559009d1&wp=d963eb34-2126-4d12-bf9a-8c46be406e7e)

Secretary of State (<http://www.sos.wv.gov/Pages/default.aspx>) > Business and Licensing (<http://www.sos.wv.gov/business-licensing/Pages/default.aspx>) > Service of process search (/business/service-of-process/) > USPS status details

USPS Status Details

Defendant: JUSTIN DARNELL DOSS (/business/service-of-process/Home/Details/290585)
Civil action number: 22-C-30

Date (/business/service-of-process/Home/USPSStatusDetails/290585?sort=EffectiveDate&sortdir=ASC)	Code (/business/service-of-process/Home/USPSStatusDetails/290585?sort=EventCode&sortdir=ASC)	Event (/business/service-of-process/Home/USPSStatusDetails/290585?sort=EventName&sortdir=ASC)	Zip code (/business/service-of-process/Home/USPSStatusDetails/290585?sort=ZipCode&sortdir=ASC)
3/26/2022 12:13:00 PM	01	DELIVERED LEFT WITH INDIVIDUAL	24382
3/26/2022 8:00:00 AM	OF	OUT FOR DELIVERY	24382
3/26/2022 8:00:00 AM	OF	OUT FOR DELIVERY	24382
3/26/2022 7:49:00 AM	07	ARRIVAL AT UNIT	24382
3/26/2022 7:49:00 AM	07	ARRIVAL AT UNIT	24382
3/25/2022 10:23:00 PM	10	PROCESSED THROUGH USPS FACILITY	24022
3/25/2022 8:44:00 PM	EF	DEPARTED USPS REGIONAL FACILITY	24022
3/25/2022 7:25:00 PM	10	PROCESSED THROUGH USPS FACILITY	24022
3/23/2022 9:28:00 PM	10	PROCESSED THROUGH USPS FACILITY	29201
3/23/2022 9:28:00 PM	10	PROCESSED THROUGH USPS FACILITY	29201
3/23/2022 12:29:00 PM	10	PROCESSED THROUGH USPS FACILITY	29201
3/21/2022 9:05:00 PM	10	PROCESSED THROUGH USPS FACILITY	25350
3/21/2022 7:50:00 PM	OA	ORIGIN ACCEPTANCE	25301
3/18/2022 4:23:00 PM	MA	PRE-SHIPMENT INFO SENT USPS AWAITS ITEM	25301

Home (<http://www.sos.wv.gov/pages/default.aspx>) | Contact Us (<http://www.sos.wv.gov/Pages/contact-us.aspx>) | Site Map (<http://www.sos.wv.gov/Pages/sitemap.aspx>) | Disclaimer (<http://www.sos.wv.gov/Pages/content-disclaimer.aspx>)

west virginia (<http://www.wv.gov>)

Privacy, Security and Accessibility

State Agency Directory (<http://www.wv.gov/Pages/agencies.aspx>) | Online Services (<http://www.wv.gov/Pages/services.aspx>)



Date Produced: 03/28/2022

WEST VIRGINIA SECRETARY OF STATE:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 1251 3410 0003 4812 29. Our records indicate that this item was delivered on 03/26/2022 at 12:13 p.m. in WYTHEVILLE, VA 24382. The scanned image of the recipient information is provided below.

Signature of Recipient :

GC KT
C-101

Address of Recipient :

3000 N 4TH
#9

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Customer Reference Number: 348122